

24. (Original) The accounting module of claim 20, wherein the accounting module receives the subscription-based application deletion data directly from the one or more wireless devices.

25. (Currently Amended) In a computer readable medium, a program that directs a computer to account for the use of subscription-based software applications by one or more wireless devices in selective communication with one or more application download servers across a wireless network through performing the steps of:

receiving subscription-based application download data from the one or more application download servers, the subscription-based application download data for each subscription-based software application downloaded by a wireless device from the one or more application download servers, wherein the wireless device is configured to transmit voice communication from a user to the wireless network;

receiving subscription-based application deletion data from each wireless device that has deleted a subscription-based software application; and

accounting for the use of subscription-based software applications by each wireless device based upon the subscription-based software application download data and subscription-based application deletion data.

REMARKS

Claims 1-25 are pending in the present application. After entry of the above amendments, claims 1-25 remain pending in the present application. Applicants believe that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

Objection to the Specification

Examiner objects to the "abstract of the disclosure" because of an incorrect reference number. The Examiner cited page 9, which is part of the detailed description,

in the specification as containing the error. Applicants believe Examiner's reference to the "abstract" is a typographical error. Applicants amended page 9 of the detailed description as suggested by the Examiner..

Claim Rejection - 35 USC §112

Examiner rejected claims 1-25 as being indefinitely because of the use of "selectively". Applicants have amended the claims and believe these claims are now in condition for allowance.

Examiner rejected claim 11 due to lack of structural support. Applicants respectfully disagree with the Examiner. Specifically, Figures 1 and 2, in addition to the detailed description, provide a structure of the wireless communication means, application download means and accounting means which includes the use of the network, application download server and accounting server, respectively, depicted in figures 1 and 2 and described in the detailed description.

Claim Rejection - 35 USC §103

Examiner has rejected claims 1-25 under 35 USC 103(a) as being unpatentable over Javed (US PG PUB 2001/0036271) in view of Munyan (US Patent 5,761,485). Applicants respectfully disagree with Examiner's rejection.

Examiner relies on Javed to teach subscription-based application downloading. However, Javed teaches downloading of content, not applications, and the content is not subscription-based. (Javed, para. 15, "The present invention... allows subscribers to securely buy, rent or otherwise acquire stored digital content", emphasis added). This distinction is important because Javed requires the device receiving the content to already contain the application that uses the received content. For example, in Javed, video clips may be downloaded to the device, but the application that executes the video clips must be already resident on the device.

By not teaching the downloading of applications, Javed severely limits the device to use only content related to those applications that are preloaded onto the device. In

Javed, other applications cannot be downloaded so the user of the device is limited to received content only related to the application that has been preloaded onto the device.

There is another distinction between downloading content versus applications.

Downloading content is distinguishable from downloading applications because applications require more knowledge of the device it will be executing on, such as the operating system or platform used by the device, possibly including use of the device's file structure and registry. Content is "dumb" and doesn't require this knowledge.

Furthermore, in Javed, the application that will use the content is predetermined and preloaded on the device (i.e., not downloaded) and the user cannot select an application to download, only different content for the same application. This requires more coordination with the device prior to downloading content so that the application using the content may be preloaded onto the device. Such preloading is not necessary in the Applicants' invention. The Applicants' invention allows the wireless download of the subscription-based application.

Similarly, Munyan only teaches the retrieval of content, not applications, so the same argument discussed above with respect to Javed applies to Munyan. Munyan is directed toward a Personal Electronic Book. It teaches retrieval of publications, again content, not applications. Furthermore, Munyan does not teach anything related to being subscription-based.

In addition, Applicants' claims, as amended, all include the wireless device configured to transmit voice communication over the wireless network. Hence the same device is configured for voice transmission and subscription based application download. Neither Javed nor Munyan teach this distinction. The devices, networks, and their interfaces described in Javed and Munyan not only don't teach but are not capable of this recited limitation.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to
Deposit Account No. 17-0026.

Respectfully submitted,

Dated: June 13, 2003

By: Robert J. O'Connell
Robert J. O'Connell
Attorney for Applicants
Registration No. 44,265

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 651-4361
Facsimile: (858) 658-2502